

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joshua E. Imborek,
Appellant,

v.

City of Davenport Board of Review,
Appellee.

ORDER

Docket No. 14-103-0213
Parcel No. G0004-08

On December 4, 2014, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Joshua E. Imborek was self-represented. The Board of Review designated City Attorney Tom Warner as its legal representative. Assessor Nick Van Camp represented it at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Joshua E. Imborek, owner of property located at 631 West Locust Street, Davenport, Iowa, appeals from the City of Davenport Board of Review decision reassessing his property. According to the property record card, the subject property is a one-and-one-half story, two-family conversion with 2612 square feet of living area, and a full, unfinished basement built in 1900. It also has a deck and two open porches. The dwelling is listed as a good quality grade (3-5) and in normal condition. Its site is 0.108-acres.

The real estate was classified residential on the initial assessment of January 1, 2014, and valued at \$68,850, representing \$11,790 in land value and \$57,060 in improvement value. The property was reassessed in 2014, making all grounds of protest available.

Imborek protested to the Board of Review on the grounds that there was an error in the assessment under Iowa Code section 441.37(1)(a)(1)(d) and that there was a downward change in value under sections 441.37(1)(a)(2) and 441.35(2). Imborek's error claim is essentially one of over-assessment under section 441.37(1)(a)(1)(b). The Board of Review granted the protest, in part, and reduced the assessment to \$44,880, allocated \$11,790 to land value and \$33,090 to improvement value. Imborek then filed his appeal with this Board and urged the same grounds. He claims \$13,000 is the actual value and fair assessment of the subject property.

Although 2014 would typically be an interim assessment year, in this case the assessor revalued and changed the 2014 value from what it was the previous year; as a result, all grounds of appeal were available. *Eagle Food Centers, Inc. v. Bd. Of Review of City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). Further, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider only the claim of over-assessment.

Imborek testified the subject property had been vacant for seven and one-half years before he purchased it in October 2013 for \$22,770. He indicated the purchase was from a lender after a foreclosure. No appraisal was completed at the time because it was a cash purchase. Imborek indicated that the property had the original gravity furnace, no water or gas service, and four to five inches of ice on the basement floor at the time of purchase. He completed \$105,000 in renovations after the January 1, 2014, assessment date. Imborek reported the dwelling was recently appraised for \$95,000, although the appraisal was not offered as evidence.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply.

Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

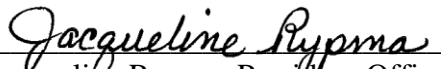
Imborek believed the 2014 assessment should reflect his October 2013 purchase price. However, he purchased the property from a lender following a foreclosure. We are also mindful of the fact that foreclosures and lender sales are not considered normal transactions and require either exclusion or adequate adjustments to be used as evidence of market value. *See Iowa Code*

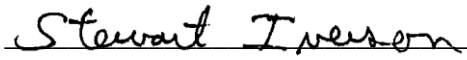
§441.21(1)(b). No adjustment was made to Imborek's sales price to compensate for the abnormal sale condition. Imborek did not submit any other evidence to support his claim.

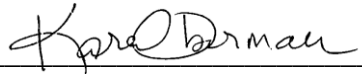
We find a preponderance of the evidence does not prove the subject property was over-assessed as of January 1, 2014.

THE APPEAL BOARD ORDERS that the January 1, 2014, assessment as determined by the City of Davenport Board of Review is affirmed.

Dated this 8th day of January, 2015.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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